

IN THE SENATE

SENATE BILL NO. 1122

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO CHILD CUSTODY; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-720, IDAHO CODE, TO PROVIDE A PROCEDURE FOR THE COURT IN THE EVENT A PETITION FOR MODIFICATION OF A CHILD CUSTODY ORDER IS FILED WHERE THE ACTION MAY BE SUBJECT TO THE SERVICEMEMBERS CIVIL RELIEF ACT, TO PROVIDE THAT UNDER CERTAIN CIRCUMSTANCES THE COURT MAY ONLY ENTER AN ORDER OR DECREE TEMPORARILY MODIFYING THE EXISTING CHILD CUSTODY ORDER DURING A PERIOD OF DEPLOYMENT, TO PROVIDE FOR EXPIRATION OF THE ORDER OR DECREE, TO PROVIDE FOR EXPEDITED OR EMERGENCY HEARINGS RELATING TO THE EXPIRATION OF ORDERS OR DECREES, TO PROVIDE FOR THE EXTENSION OF TEMPORARY ORDERS, TO PROVIDE FOR TEMPORARY ORDERS GRANTING DEPLOYED PARENTS REASONABLE CONTACT WITH THE CHILD, TO PROVIDE FOR EXPEDITED HEARINGS RELATING TO PETITIONS TO MODIFY, TO PROVIDE FOR THE PRESENTATION OF TESTIMONY AND EVIDENCE BY ELECTRONIC MEANS UNDER CERTAIN CONDITIONS AND TO DEFINE TERMS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 7, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-720, Idaho Code, and to read as follows:

32-720. PETITIONS FOR MODIFICATION -- CHILD CUSTODY ORDERS -- SERVICEMEMBERS. (1) In the event a petition for modification of a child custody order is filed during the time that the court action may be subject to the servicemembers civil relief act, 50 U.S.C. App. section 501 et seq., because one (1) of the parties is a servicemember as defined in said act, the court shall determine if said act applies to the action pursuant to the jurisdiction provisions of the act. If the court determines that the act does apply, the court shall thereafter act in compliance with the terms of said act and, in addition, the following shall apply to the extent not in violation of said act:

(a) If the court determines that modification is in the best interest of the child pursuant to the provisions of section 32-717, Idaho Code, and the party who is a servicemember is deployed, the court may only enter an order or decree temporarily modifying the existing child custody order during the period of deployment, and upon completion by the servicemember of the period of deployment, the order or decree shall expire sixty (60) days after notification to the court, and to all persons entitled to notice in the action, of the deployed servicemember's completion of deployment. Provided however, that:

(i) The court may thereafter conduct an expedited or emergency hearing for resolution of the child's custody on the filing of a motion, filed prior to the expiration of the order, alleging that

1 it would not be in the best interests of the child pursuant to the  
2 provisions of section 32-717, Idaho Code, if the order expires;

3 (ii) If a motion is so filed, the temporary order shall be extended  
4 until the court rules on the motion; and

5 (iii) Following the return from deployment of a deploying parent  
6 and until the temporary order for child custody is terminated, the  
7 court shall enter a temporary order granting the deploying par-  
8 ent reasonable contact with the child unless it is contrary to the  
9 best interests of the child pursuant to the provisions of section  
10 32-717, Idaho Code.

11 (b) If the deployment of a party who is a servicemember affects the  
12 party's ability or anticipated ability to appear at a regularly sched-  
13 uled hearing related to a petition for modification of child custody,  
14 the court may provide for an expedited hearing to allow the servicemem-  
15 ber to appear.

16 (c) If the deployment of a party who is a servicemember prevents the  
17 servicemember from appearing in person at a hearing related to a pe-  
18 tition for the modification of child custody, the court may provide,  
19 upon reasonable advance notice to the parties, for the servicemember to  
20 present testimony and evidence by electronic means, if such can be done  
21 without prejudice to the ability of the servicemember to adequately and  
22 reasonably present such testimony and evidence.

23 (2) For purposes of this section:

24 (a) "Deployed" or "deployment" means military service performed in  
25 compliance with a valid order received by an active duty or reserve mem-  
26 ber of the armed services of the United States, national guard or United  
27 States coast guard to report for combat operations, contingency opera-  
28 tions, peacekeeping operations, temporary duty, a remote tour of duty  
29 or other active service for which the deploying party reports. The term  
30 shall include those members who are actually deployed as well as those  
31 members with valid orders preparing to be deployed;

32 (b) "Electronic means" includes communication by telephone, video  
33 teleconference or the internet.